

**Amendment Offered by Mr. Lucas of Oklahoma (for himself, Mrs. Maloney, Mr. Gillmor, Mr. Green of Wisconsin, Mr. Bachus, Mr. Davis of Alabama, Mrs. McCarthy of New York, Mr. King of New York, and Mrs. Kelly)**

**To the Amendment in the Nature of a Substitute Offered by Mr. Oxley**

Page 102, after line 21, add the following new section (and conform the table of contents accordingly):

**1 SEC. 619. COORDINATION OF STATE EXAMINATION AU-**  
**2 THORITY.**

3 Section 10(h) of the Federal Deposit Insurance Act  
4 (12 U.S.C. 1820(h)) is amended to read as follows:

5 “(h) COORDINATION OF EXAMINATION AUTHOR-  
6 ITY.—

7 “(1) IN GENERAL.—The appropriate State  
8 bank supervisor of the home State of an insured  
9 State bank has authority to examine and supervise  
10 the bank. The State bank supervisor of the home  
11 State of an insured State bank shall exercise its au-  
12 thority to supervise and examine the branches of the  
13 bank in a host State in accordance with the terms  
14 of any applicable cooperative agreement between the



1 home State bank supervisor and the State bank su-  
2 pervisor of the relevant host State. Except as ex-  
3 pressly provided in a cooperative agreement between  
4 the State bank supervisors of the home State and  
5 host State(s) of an insured State bank, only the  
6 State bank supervisor of the home State of an in-  
7 sured State bank may levy or charge State super-  
8 visory fees on the bank.

9 “(2) HOST STATE EXAMINATION.—With respect  
10 to a branch operated in a host State by an out-of-  
11 State insured State bank that resulted from an  
12 interstate merger transaction approved under section  
13 44 or that was established in such State pursuant  
14 to section 5155(g) of the Revised Statutes, the third  
15 undesignated paragraph of section 9 of the Federal  
16 Reserve Act or section 18(d)(4) of this Act, the ap-  
17 propriate State bank supervisor of such host State  
18 may—

19 “(A) with written notice to the State bank  
20 supervisor of the bank’s home State and subject  
21 to the terms of any applicable cooperative  
22 agreement with the State bank supervisor of  
23 such home State, examine such branch for the  
24 purpose of determining compliance with host  
25 State laws that are applicable pursuant to sec-

tion 24(j) of this Act, including those that govern community reinvestment, fair lending, and consumer protection; and

“(B) if expressly permitted under and subject to the terms of a cooperative agreement with the State bank supervisor of the bank’s home State or if such out-of-State insured State bank has been determined to be in a troubled condition by either the State bank supervisor of the bank’s home State or the bank’s appropriate Federal banking agency, participate in the examination of the bank by the State bank supervisor of the bank’s home State to ascertain that the activities of the branch in such host State are not conducted in an unsafe or unsound manner. The State bank supervisor of the home State of an insured State bank shall notify the State bank supervisor of each host State of the bank if there has been a final determination that the bank is in a troubled condition. The State bank supervisor of the bank’s home State shall provide such notice as soon as reasonably possible but in all cases within 15 business days after the State bank supervisor has made such final determination or has re-



1           ceived written notification of such final deter-  
2           mination.

3           “(3) HOST STATE ENFORCEMENT.—If the State  
4           bank supervisor of a host State determines that a  
5           branch of an out-of-State State insured State bank  
6           is violating any law of the host State that is applica-  
7           ble to such branch pursuant to section 24(j) of this  
8           Act, including a law that governs community rein-  
9           vestment, fair lending, or consumer protection, the  
10          State bank supervisor of the host State or, to the ex-  
11          tent authorized by the law of the host State, a host  
12          State law enforcement officer may, with written no-  
13          tice to the State bank supervisor of the bank’s home  
14          State and subject to the terms of any applicable co-  
15          operative agreement with the State bank supervisor  
16          of the bank’s home State, undertake such enforce-  
17          ment actions and proceedings as would be permitted  
18          under the law of the host State as if the branch  
19          were a bank chartered by that host State.

20          “(4) COOPERATIVE AGREEMENT.—The State  
21          bank supervisors from 2 or more States may enter  
22          into cooperative agreements to facilitate State regu-  
23          latory supervision of State banks, including coopera-  
24          tive agreements relating to the coordination of ex-  
25          aminations and joint participation in examinations.

1 For purposes of this subsection (h), the term “coop-  
2 erative agreement” means a written agreement that  
3 is signed by the home State bank supervisor and  
4 host State bank supervisor to facilitate State regu-  
5 latory supervision of State banks and includes na-  
6 tionwide or multi-state cooperative agreements and  
7 cooperative agreements solely between the home  
8 State and host State. Except for State bank super-  
9 visors, no provision of this subsection (h) relating to  
10 such cooperative agreements shall be construed as  
11 limiting in any way the authority of home and host  
12 State law enforcement officers, regulatory super-  
13 visors, or other officials that have not signed such  
14 cooperative agreements to enforce host State laws  
15 that are applicable to a branch of an out-of-State in-  
16 sured State bank located in the host State pursuant  
17 to section 24(j) of this Act.

18 “(5) FEDERAL REGULATORY AUTHORITY.—No  
19 provision of this subsection shall be construed as  
20 limiting in any way the authority of any Federal  
21 banking agency.

22 “(6) STATE TAXATION AUTHORITY NOT AF-  
23 FECTED.—No provision of this subsection (h) shall  
24 be construed as affecting the authority of any State  
25 or political subdivision of any State to adopt, apply,



1 or administer any tax or method of taxation to any  
2 bank, bank holding company, or foreign bank, or  
3 any affiliate of any bank, bank holding company, or  
4 foreign bank, to the extent such tax or tax method  
5 is otherwise permissible by or under the Constitution  
6 of the United States or other Federal law.

7 “(7) DEFINITIONS.—For purpose of this sec-  
8 tion, the following definition shall apply:

9 “(A) The terms “host State”, “home  
10 State”, and “out-of-State bank” have the same  
11 meanings as in section 44(g).

12 “(B) The term “State supervisory fees”  
13 means assessments, examination fees, branch  
14 fees, license fees, and all other fees that are lev-  
15 ied or charged by a State bank supervisor di-  
16 rectly upon an insured State bank or upon  
17 branches of an insured State bank.

18 “(C) Solely for purposes of subparagraph  
19 (2)(B) of this subsection (h), an insured State  
20 bank has been determined to be in “troubled  
21 condition” if the bank—

22 “(i) has a composite rating, as deter-  
23 mined in its most recent report of exam-  
24 ination, of 4 or 5 under the Uniform Fi-

1           nancial Institutions Ratings System  
2           (UFIRS); or

3           “(ii) is subject to a proceeding initi-  
4           ated by the Corporation for termination or  
5           suspension of deposit insurance; or

6           “(iii) is subject to a proceeding initi-  
7           ated by the State bank supervisor of the  
8           bank’s home State to vacate, revoke, or  
9           terminate the charter of the bank, or to  
10          liquidate the bank, or to appoint a receiver  
11          for the bank.

12          “(D) For the purposes of paragraph  
13          (2)(B), the term ‘final determination’ means  
14          the transmittal of a Report of Examination to  
15          the bank or transmittal of official notice of pro-  
16          ceedings to the bank.”.

